

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

FRANCES O'LEARY,

Plaintiff,

-against-

NY STATE UNIFIED COURT SYSTEM,

Defendant.

-----X

STATE OF NEW YORK)

COUNTY OF NASSAU)

05 Civ. 6722 (HB)

AFFIDAVIT OF EDEN
FITZGIBBONS MAURO

Eden Fitzgibbons Mauro, being duly sworn, deposes and says:

1. I am partner in the firm, Mauro & Guzzardo, LLP, attorneys of record for the Plaintiff. I submit this affidavit in opposition to defendant's motion for summary judgment. The facts set forth in this affidavit are based upon review of documents and conversations with the Plaintiff herein.

Procedural History

2. On May 5, 2004, the Plaintiff filed a complaint of discrimination with the New York State Unified Court System Office of the Inspector General. Exhibit "A" hereto. Said complaint alleged race, color, national origin, sex, age and education discrimination. Exhibit "A".

3. On July 19, 2004, Plaintiff filed a Charge of Discrimination with the EEOC alleging she had been discriminated against by Defendant. Exhibit "1" to Sullivan Affidavit.

4. On July 26, 2005, Plaintiff filed the original Complaint in this action. Exhibit "2" to Sullivan Affidavit.

5. On or about September 20, 2005, Defendant served its Answer to the Original Complaint. Exhibit "B" hereto.

6. On July 19, 2006, Plaintiff filed her second Charge of Discrimination against Defendant with the EEOC. Exhibit "3" to Sullivan Affidavit.

7. On November 13, 2006, Plaintiff filed an Amended Complaint. Exhibit "4" to Sullivan Affidavit.

8. Plaintiff's Deposition was held on September 7, 2006. Relevant portions of the deposition transcript are annexed hereto as Exhibit "C".

Promotions sought

9. The Affidavit of John Sullivan sets forth the majority of the promotions which are the subject of this lawsuit. In order to avoid repetition, only issues not covered by the Sullivan Affidavit are discussed herein.

10. In December 2002, Plaintiff applied for the position of Deputy Chief Clerk V. Exhibit "C" and Exhibit "D" hereto.

11. The Deputy Chief Clerk V position was given to Serena Springle. Exhibit "C".

12. Serena Springle's resume indicates that, at the time of appointment, she only possessed a high school diploma. Exhibit "E" hereto.

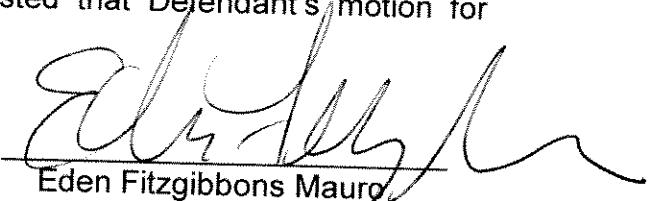
13. In November 2004, Plaintiff applied for the Chief Clerk of the Bronx County Surrogate's Court position. Affidavit of John Sullivan, par. 69. Plaintiff was not granted an interview. Affidavit of John Sullivan, par. 71.

14. Angel Cruz and John Raniolo were both granted an interview. Affidavit of John Sullivan, par. 71 and exhibit 23 thereto.

15. John Raniolo was listed as the number two (2) preference of all candidates. Exhibit "F" hereto.

16. Annexed herewith are copies of an Affidavit of Frances O'Leary and Affidavit of Michael Cusack.

WHEREFORE, it is respectfully requested that Defendant's motion for summary judgment be denied in all respects.


Eden Fitzgibbons Mauro

Sworn to before me this
30th day of April, 2007


Notary Public

**Deborah Gale, Notary
State of New York
County of Suffolk
No. 016A 488888
Commission expires August 3, 2010**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X

FRANCES O'LEARY,

Plaintiff,

-against-

NY STATE UNIFIED COURT SYSTEM,

Defendant.
-----X

05 Civ. 6722 (HB)

PLAINTIFF'S AFFIDAVIT
IN OPPOSITION TO
DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT

STATE OF NEW YORK)
 :
COUNTY OF NASSAU)

FRANCES O'LEARY, being duly sworn, deposes and says:

1. I am the Plaintiff herein and I make this Affidavit in opposition to Defendant's Motion for Summary Judgment.
2. I am a Caucasian female.
3. I have been employed by the Unified Court System for the past twenty nine (29) years as, inter alia, a Uniformed Court Officer, Senior Court Clerk and Principle Court Attorney.
4. During the my tenure with the Unified Court System, I have continued to attend seminars and conferences in specialized areas of law: For example for the past six (6) years I have attended the R.C. Diocese of Brooklyn, Annual Lawyers' Conference, at which Surrogate Holzman lectures. The subject of these conferences is trusts and estates. This is in addition to the annual January CLE's (12 credits annually) provided by Unified Court System for their staff.

5. In or about 2003, I became certified as a Court Examiner under the Guardianship Rules (Rule 36).

6. On May 28, 2004, I submitted a formal complaint of discriminatory treatment with the New York State Unified Court System Office of Inspector General. I complained of discrimination in promotions on account of race, color, national origin, sex and age. A copy of the Complaint is annexed hereto as exhibit "1".

7. On or about July 19, 2004, I filed my first Charge of Discrimination with the EEOC alleging discrimination in promotions. Exhibit 1 to Defendant's Rule 56.1 Statement.

8. On or about July 26, 2005, I filed my complaint of discrimination, alleging, inter alia, failure to promote base upon race, ethnicity, national origin and gender, in the Southern District of New York. Exhibit 2 to Defendant's Rule 56.1 Statement.

9. Thereafter, in December 2005, while working for J. Sackett, Bronx County, I was given a letter of termination.

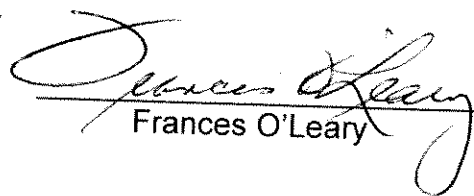
10. In or about December 2005, I interviewed for a position with J. Caesar Cirigliano, a Court of Claims Judge. During the course of the interview, J. Cirigliano asked me why I wanted to work for a judge who only had one (1) year left before mandatory retirement. I responded that the one (1) year working for him would give me time to pursue other positions within the Court System. I further advised him that I had filed a claim of discrimination with both the Inspector General's office and the EEOC and had filed a complaint in Federal

Court. J. Cirigliano responded that he did not want to know about my lawsuit. I was thereafter denied the position.

11. On or about January 31, 2006, I was called into a meeting with J. Salmon, Administrative Justice for the Civil Term. During the course of that meeting, J. Salmon informed me that he would place me in the law pool on the condition that I do him a "favor". When I asked what the favor was, he responded, that I "had a reputation of embarrassing people" and that he did not want me to "embarrass" him. I asked if he was referring to my claims of discrimination, and he responded that he didn't want to hear about it. Because I needed the job, I agreed not to "embarrass" him.

12. However, when I joined the Law Department, my position title was changed, without my consent, to Court Attorney, a position covered by the union. As a result of losing my title I lost income as a result of this change because I had to pay union dues, I am subject to compulsory donation of annual leave time and I no longer received the same level of dental and optical benefits.

WHEREFORE, it is respectfully requested that Defendant's motion for summary judgment be denied in all respects.


Frances O'Leary

Sworn to before me this
day of April, 2007


Notary Public

Deborah Gale, Notary
State of New York
County of Suffolk
No. 01GA 488888
Commission expires August 3, 2010

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X

FRANCES O'LEARY,

Plaintiff,

-against-

NY STATE UNIFIED COURT SYSTEM,

Defendant.
-----X

05 Civ. 6722 (HB)

AFFIDAVIT OF
MICHAEL CUSACK


STATE OF NEW YORK)
 :
COUNTY OF NASSAU)

MICHAEL CUSACK, being duly sworn, deposes and says:

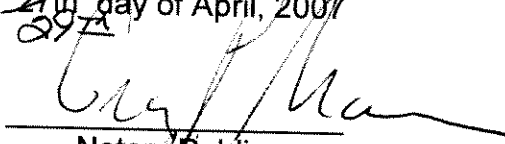
1. I worked within the Unified Court System for over twenty nine (29) years as, inter alia, a Uniformed Court Officer, Assistant Court Clerk, Senior Court Clerk and Deputy Chief Clerk V.
2. Over the past twenty nine (29) years, in my various positions with the Unified Court System, I have come to know Frances O'Leary and I am familiar with her work experience and work performance as a Court Clerk and a Court Attorney.
3. As part of my job responsibilities as a Deputy Chief Clerk V, I sat on various panels designed to review resumes for interviews, conduct interviews and ultimately recommend a candidate to fill Clerk positions within the Unified Court System.

4. Having sat on panels and having worked as a Deputy Chief Clerk V for over fifteen (15) years, I am fully familiar with the job requirements for each position.

5. Had Fran's resume come before me, I would have unequivocally recommended her for an interview for a Chief Clerk V, Chief Clerk VI or Chief Clerk VII position. Based upon her education and job experience she is fully qualified for the each of these positions.


Michael Cusack

Sworn to before me this
27th day of April, 2007
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Notary Public
JOHN MAURO, ESQ
Notary Public State of New York
No. 02MA6002073
Qualified in Suffolk County
Commission Expires March 11, 2010

New York State Unified Court System Office of the Inspector General

UCS-18 (8/02)

CLAIM OF DISCRIMINATORY TREATMENT

Please complete this form to file a claim of discriminatory treatment with the Unified Court System's Office of the Inspector General. Any individuals contacted by the Office of the Inspector General will be asked not to disclose the facts or contents of your claim unless disclosure is necessary.

Name: FRANCES O'LEARY Title: PRINCIPLE CT ATTORNEY TO JUSTICE
 Work Location: BY SUP. 851 GRAND CONCOURSE
 City: NY State: NY Zip: 10451 Work Phone: (718) 890-8932
 Home Address: 23 07 PEARSON AV
 City: NY State: NY Zip: 10469 Home Phone: (718) 881-7013

Following receipt of your claim, you will be advised of the name and telephone number of the staff member responsible for investigating your claim. You also will be informed if the office needs further information or if there is a reason why the office cannot proceed with the investigation.

1. I believe that I have been treated in a discriminatory manner based on my:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Race | <input checked="" type="checkbox"/> Sex (including Sexual Harassment) |
| <input checked="" type="checkbox"/> Color | <input checked="" type="checkbox"/> Age |
| <input checked="" type="checkbox"/> Creed | <input type="checkbox"/> Disability |
| <input checked="" type="checkbox"/> Religion | <input type="checkbox"/> Marital Status |
| <input checked="" type="checkbox"/> National Origin | <input type="checkbox"/> Other (please specify): |
| <input type="checkbox"/> Sexual Orientation | <u>EDUCATION</u> |

2. I believe that the act or treatment described below is discriminatory:

Failure to afford me an interview for the title of Chief Clerk, Civil Division, By Sup.

3. I believe that the following individual(s) has (have) acted in a discriminatory manner:

James Espinoza, Administrative Justice Civil Term, Sup. Ct.

4. Date of act or treatment (or indicate if ongoing):

Ongoing. See documents submitted to v. Howard by Hoffman University Director, Alice Chapman, this date.

5. Witnesses (include names, work locations and telephone numbers):

See documents submitted by Ms. Chapman, as indicated above.

I authorize the New York State Unified Court System's Office of the Inspector General to use my name in investigating this claim.

Signature:

Frances O'Leary

Date:

5/28/04

Please attach any additional information you may have about the claim and mail this form or a copy of it to:

Office of the Inspector General
 Office of Court Administration
 25 Beaver Street
 Attention: Managing Inspector General for Bias Matters
 New York, New York 10004
 (646) 386-3507

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FRANCES O'LEARY,

Plaintiff

- against -

NY STATE UNIFIED COURT SYSTEM,

Defendant.

ANSWER

05 CV 6722 (HB)

Defendant, by its attorney, Michael Colodner, answering the Complaint herein:

1. Denies the allegations contained in paragraph "1" of the Complaint, except admits that plaintiff purports to bring this action on the grounds enumerated therein.
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "2" of the Complaint.
3. Denies the allegations contained in paragraph "3" of the Complaint, except admits that the Office of Court Administration has offices at 25 Beaver Street, New York, New York.
4. Denies the allegations contained in paragraph "4" of the Complaint, except admits that the Unified Court System of the State of New York employs more than 15 persons.

5. Denies the allegations contained in paragraph "5" of the Complaint, except admits that at all times relevant to this action plaintiff was an employee of the Unified Court System of the State of New York.

6. Admits the allegations contained in paragraph "6" of the Complaint.

7. Denies the allegations contained in paragraph "7" of the Complaint, and refers to the statutory provision referred to therein for its contents.

8. Denies the allegations contained in paragraph "8" of the Complaint, except admits that venue is properly in the Southern District of New York.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "9" of the Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "10" of the Complaint, except admits that plaintiff's current title is Principal Law Clerk to Judge and she is assigned in that capacity to a Justice of the Supreme Court, Bronx County.

11. Denies the allegations contained in paragraphs "11" through and including "23" of the Complaint.

12. Denies the allegations contained in paragraph "24" of the Complaint, except refers to the response to plaintiff's Charge of Discrimination that was submitted to the Equal Employment Opportunity Commission on behalf of the Unified Court System of the State of New York for the contents thereof.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "25" of the Complaint, except admits that plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "26" of the Complaint, except admits that the Equal Employment Opportunity Commission issued a Dismissal and Notice of Rights letter to plaintiff dated April 29, 2005.

15. As and for an answer to paragraph "27" of the Complaint, repeats and realleges paragraphs "1" through "14" of this Answer.

16. Denies the allegations contained in paragraph "28" of the Complaint.

17. As and for an answer to paragraph "29" of the Complaint, repeats and realleges paragraphs "1" through "16" of this Answer.

18. Denies the allegations contained in paragraph "30" of the Complaint.

19. As and for an answer to paragraph "31" of the Complaint, repeats and realleges paragraphs "1" through "18" of this Answer.

20. Denies the allegations contained in paragraph "32" of the Complaint.

21. Alleges that paragraph "33" of the Complaint makes no allegations to which a response is required.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

22. Plaintiff has failed to state a cause of action upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

23. This Court lacks subject matter jurisdiction over plaintiff's causes of action.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

24. This action is barred in whole or in part by the statute of limitations.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

25. Defendant is immune from suit pursuant to the Eleventh Amendment of the United States Constitution and the doctrine of sovereign immunity.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

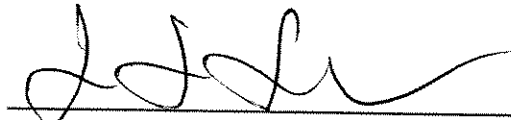
26. Defendant is not subject to liability under the Administrative Code of the City of New York.

WHEREFORE, the Complaint should be dismissed.

Dated: Albany, New York
September 20, 2005

MICHAEL COLODNER
Attorney for Defendant
Office of Court Administration
Empire State Plaza
4 ESP, Suite 2001
Albany, New York 12223-1450
(518) 474-7469

By:

A handwritten signature in black ink, appearing to read 'JJS', is written over a horizontal line.

John J. Sullivan (JJS9947)
Assistant Deputy Counsel

O'LEARY

A. To aid people seeking to pursue a matter themselves without the benefit of an attorney.

MR. COREN: Before the next question.

(The witness and her counsel conferred off the record.)

A. In the Central Clerk's office and Surrogate's --

MR. COREN: Do you want to add to your answer that you previously gave?

THE WITNESS: Yes.

Q. Please do.

A. When I was assigned to the Central Clerk's office in the Surrogate's office, I did supervise people in that office.

Q. Who did you supervise?

A. The court aides -- I am not sure of the titles of the people that I supervised there, but I know they were unrated clerks.

Q. And how did you supervise?

A. I'm not sure I understand your

O'LEARY

question.

Q. You said you supervised them.
How did you supervise them. What did you
supervise them about?

A. In the performance of their
duties.

Q. Which were what?

A. Getting the correct documents to
copy and to certify, I did the
certification.

Q. So with respect to that, you
would tell a court aide to go and fetch
the will from the file and bring it to you
and make a copy?

A. From the vault.

Q. From the vault and make a copy.
Would you make a copy or the court aide
would make the copies?

A. They would make the copies.

Q. And they would bring you the
will and the copies together and then you
would certify them?

A. Yes.

Q. And that's what you mean by

O'LEARY

supervising them?

A. It's not limited to that, but yes.

Q. What else did you do to supervise them?

A. Direct them in answering information that came from the public. I don't recall other things, but I know when I was there, I was there as their supervisor.

Q. And you were assigned, that was your role, to supervise the court aides when you were there?

A. Yes.

Q. And you don't recall what else you supervised them doing?

A. Not really.

Q. When you say that you interacted with the court aides with respect to inquiries from the public, is that correct?

A. Yes.

Q. So did you deal directly with the public or did the court aides?

O'LEARY

A. They could generally refer the person to me, but sometimes I would have them escort them to a particular office, direct them to a particular agency.

Q. You would tell the aide to tell them where to go?

A. Ask them to direct them, yes.

Q. Did you prepare any performance evaluations for the aides?

A. No.

Q. Did you monitor their time?

A. I would make sure they took an hour for lunch, but other than that, no.

Q. Going back to the Surrogate Court for a minute, when you were in the administration department, did you supervise anybody there?

A. I believe there was an unrated clerk there.

Q. What was the nature of you supervising the duties of that unrated clerk, if you recall?

A. I don't.

Q. What about in the courtroom, did

O'LEARY

cut at that point had been more than I anticipated, and in Criminal Court I ran into a stretch where there was nothing to do. And so the opportunity came up, Justice Bernheim asked me if I would go to work for her and I jumped at it.

Q. Did anyone help you get that job with Justice Bernheim?

A. No.

Q. Did she advertise for that position?

A. No.

Q. She just came to you and said I have an opening, would you like to fill it?

A. Yes.

Q. And you worked as a principal court attorney with Justice Bernheim, is that correct?

A. Correct.

Q. As the principal court attorney, were your duties other than legal research?

A. She was a fully elected Justice,

O'LEARY

she did have a staff and she did have projects. So I supervised the confidential.

MS. TIMON: When you say confidential, what do you mean? Who is that?

THE WITNESS: As a Justice, she is entitled to a personal secretary, a confidential secretary. The confidential secretary at that time was 18 years old. We had -- I supervised her time and leave, I supervised as we updated books. The Judge had a couple of projects going on that we would help her with from time to time.

Q. What was her name, the person you supervised?

A. Carmen Watkins.

Q. Did you sign her time sheets?

A. Again, I initialed them for the Judge, but I did not sign off on them.

Q. Was there anybody else that you supervised besides the Judge's secretary?

THE WITNESS: One moment.

O'LEARY

MR. COREN: Counsel?

MR. SULLIVAN: Let the record reflect that the witness is conferring with her attorney before answering the question.

MR. COREN: She's ready to answer.

A. I want to amend my answer as to Judge Boyle, and it would also apply to Judge Savarese, but not to Judge Monahan. Judge Savarese and Judge Boyle, and I believe Judge Griffin, but that I am not positive of, each had student interns, and I did supervise them, assigned them work, reviewed their work, gave them projects. I know Bernheim did not abide by interns.

Q. So was there anyone else that you did supervise when you were a principal clerk to Judge Bernheim?

A. No.

Q. And how did it come to be that you left working for Judge Bernheim after a year?

A. She reached 70 within that year,

O'LEARY

chose not to seek certification, and retired.

Q. How did you come to your next job with Judge Ruiz?

A. I was recommended to Judge Ruiz.

Q. By whom?

A. Several people within the court system.

Q. Who were they?

A. The woman who is now Justice Manzanet among others. I had dropped off a resume to her, was interviewed and hired.

Q. You dropped off a resume to Judge Ruiz?

A. Correct.

Q. Who was the other person besides Judge Manzanet, which could you spell for the record, take a shot at spelling.

A. M-a-n-z-a-n-e-t. Besides Judge Manzanet, probably Justice Boyle, Judge Bernheim, Judge Price. I don't know who else.

Q. Did you ask those people to

O'LEARY

provide recommendations?

A. I don't think I asked Judge, at that time Sallie, Manzanet. I think Price did speak for me. I know Boyle did speak for me, but I don't think I asked -- I don't recall if I asked Boyle to speak for me.

Q. How long did you work for Judge Ruiz?

A. Three years.

Q. When did you end your employment with Judge Ruiz?

A. Probably January of '03, if I recall correctly.

Q. What were the circumstances of your leaving her employment?

A. Judge Ruiz had been a supervisor with the Legal Aid Society Criminal Division. Most of my time, virtually all of my time in court attorney titles had been on the criminal side. She decided to give the civil term a shot and ultimately we agreed that the civil term was not quite my cup of tea. It was a hard

O'LEARY

learning curve, very steep learning curve.

Q. So you started to work with her when she went to the civil term?

A. I started working with her when she was on the criminal term. Sometime thereafter she decided that she wanted to give the civil term a shot, they needed the people, they were backlogged, the criminal terms were declining and she transferred from the criminal term to the civil term.

Q. How long did you continue working for her after she transferred to to the civil term?

A. Probably a year and a half, maybe a little more.

Q. You said a hard learning curve in the civil term. What do you mean?

A. It was a different style of work, it was a different volume of work, something I was not overly familiar with. The Judge herself was not as conversant with it as others were, and it was very difficult. At first, colleagues were

O'LEARY

helpful.

Q. What sort of concepts were difficult to you?

A. Summary judgment motions, threshold issues.

Q. Anything else?

A. Some of the procedural aspects of the civil term were problematic for me.

Q. Problematic in what sense?

A. Sorry?

Q. Problematic in what sense?

A. I didn't understand the medical terms, I didn't understand the impact of certain things within motion practice, which is basically what I was addressing. We were doing jury charges. What would flow for some who are more experienced in it did not come that easily, and because we each had a felony background, sometimes it became sticky.

Q. You mentioned also the volume that was different in the civil term than in the criminal term. Is it more intense volume of cases? Is that what you mean?

O'LEARY

A. The motion practice is what I was addressing.

Q. So there was a greater volume of motions to research and draft decisions for?

A. Oh, yes.

Q. So you decided on your own to leave the civil term and Judge Ruiz' employ?

A. No, Judge Ruiz and I decided we would divorce.

Q. You got a divorce from Judge Ruiz?

A. Yes.

Q. Is that an amicable divorce?

A. Much more so now.

Q. Where did you go after that?

A. I thought I had an arrangement to go back to Criminal Court at the time, that fell through and I ended you going with Judge Nelson Roman, staying in the Civil Term.

Q. During the time on your resume, Defendant's Exhibit 1, from 1988 to 2002,

O'LEARY

did you ever work as a law clerk for any other justice or acting justice that's not listed on your resume there?

A. I'm not sure. For a judge or justice?

Q. Either a justice or an acting justice.

A. Okay. I was not formally assigned to any other person except those that are listed. Chambers was sometimes work with another judge where there's something that's -- as the need calls for and as the personnel were comfortable. I did some work with Justice Price while I was with Judge Ruiz while he was without a court attorney or while he had a new court attorney.

Q. What time was that? What dates, if you recall?

A. I have no recollection.

Q. But you recall it was when you were formally assigned to Judge Ruiz?

A. I believe Judge Price became sick initially when I was with Justice

O'LEARY

Bernheim and was either without a court attorney or had an inexperienced court attorney.

At the end of my time with Bernheim, I started my time with Ruiz, but it was an interim type of thing pick up, it was not a formal assignment.

Q. Did you seek that job or did someone tell you you were assigned to it?

A. I still worked for the other woman.

Q. I understand, but this job with Justice Price, did you seek that job?

A. It was not a job, it was a fill-in. Judge Price would approach the justice for whom I worked and asked if he could lend me, do you think she could help me out with this. This was not a job with Judge Price.

Q. Did you supervise anybody when you worked with Judge Price?

A. Both with Judge Price and with Judge Ruiz, they were active with the intern program and the City of Schools

O'LEARY

program. One time I think Price had six or seven kids, I do mean young adults, into their mid 20s, some high school, some college, some law school, and Judge Ruiz was also very active with those programs. So at one point they started to call me the Price Club, there were that many, and yes.

Q. What was your role with respect to those students?

A. Supervising them in terms of assignment, work, coordinating with other court attorneys throughout the criminal term. If I say outings, it gives you a different perspective, but there were tours, whether it was at Rikers Island. At one point I think they went to Sing Sing, they did the central booking tours. These were ongoing activities for the summers mostly, but not exclusively.

Q. Did you ever perform written evaluations on any of these?

A. I wrote recommendations for some of them, including bar recommendations,

O'LEARY

admissions recommendations for at least one.

Q. By written evaluations, their performance?

A. Not for retention within the court system.

Q. I'm not sure what you mean.

A. I did not write recommendations or evaluations of them in my role as a court attorney for the court system.

Q. Other than recommendations that you may have written, did you write any evaluations of their performance or their duties for any person or body to review? In other words, they were interns, did you write any kind of formal evaluation of their performance for whatever group or school or organization they came from?

A. I may have, but I don't recall.

Q. Any other supervisory experience that you had with Judge Ruiz?

A. The same confidential that I worked with with Judge Bernheim came to Judge Ruiz for a short time.

1 O'LEARY

2 supervising other attorneys, is that
3 correct?

4 MR. COREN: In court --

5 MR. SULLIVAN: Anywhere in the
6 system.

7 MR. COREN: Oh, that is a
8 different question.

9 MR. SULLIVAN: That was the
10 original question.

11 A. No.

12 Q. Showing you what's been marked
13 as Defendant's Exhibit 4, I am going to
14 ask you to review it and state for the
15 record what it is?

16 (The witness reviews document.)

17 A. This appears to be a copy of a
18 job announcement for Deputy Chief Clerk 5
19 within the Criminal Court, City of New
20 York, in December of 2002.

21 Q. Just for the record, the
22 announcement number is 21209, correct?

23 A. Correct.

24 Q. Did you apply for this job in
25 December of 2002?

O'LEARY

A. Yes, I did.

Q. Did you get an interview for this job?

A. Yes, I did.

Q. Drawing your attention to the section labeled qualifications, would you please describe for me what, at the time you applied, what experience you possessed involving human resources administration?

A. None.

MR. SULLIVAN: Let the record reflect that counsel is conferring with plaintiff.

Q. Your answer is no, is that correct?

A. Human resources administration?

Q. Yes.

A. As I understand, it is a particular function. In terms of administration, I have no formal experience.

Q. Would you please describe what experience that you possessed at the time you applied for this job regarding budget

O'LEARY

Chief Clerk position in December of 2002 sought by the plaintiff.

Have you had a chance to look at that?

A. Yes, sir.

Q. Serena Springle was the person that got that job as Deputy Chief Clerk, is that correct?

A. That's my understanding.

Q. Do you feel you were more qualified than Serena Springle for this job?

A. Yes, I do.

Q. Why?

A. Ms. Springle had spent a significant amount of time in advance of this appointment in the Civil Court. At that point, most of my experience had been in the arena. Her two years immediately preceding the appointment, almost three years, was in housing court, which is an almost entirely different arena. Her resume says she has a bachelor's degree in May of 2004, and posting date there is

O'LEARY

2002. So I don't know that she had the bachelors at the time of this posting.

Q. Is there any other reason you believe you were more qualified than Serena Springle for this job?

A. Within the criminal term, she had passed the same number of Civil Service tests as I had. I believe my background and education gave me more of an edge. I also had -- you can tell from her resume what her start date was with the system, but I had more time in the system than she did.

Q. Anything else?

A. No.

Q. Ever been an Associate Court Clerk, have you?

A. No.

Q. You never served as an Associate Court Clerk?

A. That's correct.

Q. You never carried out the duty of Municipal Court Clerk, have you?

A. That's correct.

William Etheridge - Deputy Chief Clerk

Page 1

From: Frances O'Leary
To: William Etheridge
Date: Mon, Dec 30, 2002 10:26 AM
Subject: Deputy Chief Clerk

I'm sorry that I can't get there to drop this in person.

Please accept this resume in the stead of the short form one previously sent.

Looking forward to the interview. I'll have a completed USC form with me then. Thanks.

Serena Springle
119-52 Nashville Boulevard
St. Albans, New York 11412
Home (718) 341-1138
Work (212) 374-6249

COURT EXPERIENCE:

CIVIL COURT OF THE CITY OF NEW YORK

Housing Part: New York County

Principal Court Clerk: March 2000 - Present

- Responsible for the supervision of all non judicial personnel and daily court operations;
- Preparation of employee schedules, time/leave, and evaluations;
- Participation in employee hiring panels;
- Representation of Housing Court as Instructor in Civil Court's new employee orientation program, as well as designed and implemented new training materials for Housing Court employees;
- Primary liaison to Resource Center for self-represented litigants;
- Assist the Supervising Judge of the Housing Court with calendar management of the Resolution Parts;
- Review court statistics and manage case processing throughout the various parts of the Housing Court;
- Provide information and assistance to Judges of the Housing and Civil Courts, nonjudicial personnel, litigants, members of the bar, the press and the general public.

SUPREME COURT OF THE STATE OF NEW YORK

Criminal Term: New York County

Associate Court Clerk: March 1997 - March 2000

- Supervision of Supreme Court Clerk's Office;
- Appropriation of staff to Court parts;
- Preparation and arrangement for training of new clerks;
- Maintenance of court records;
- Provided assistance and information to judges, attorneys, litigants, the press and to the general public.

Honorable Juanita Bing Newton, Administrative Judge

Criminal Term: New York County

Senior Court Clerk/Associate Court Clerk: July 1995 - July 1999

- Preparation of case activity reports;
- Coordination of matrimonial enforcement part;
- Preparation of intake sheets;
- Indexed law journal cases;
- Maintain court records.

NYC CRIMINAL COURT
2002 DEC 17 PM 2:27

Senior Court Clerk: February 1993 to March 1997

- Supervision of court personnel;
- Maintain court minutes;
- Maintenance of court records;
- Maintain custody of court exhibits;
- Swore in witnesses, polled jurors;
- Selection of Grand Juries.

Senior Court Officer, September 1989 - February 1993

CIVIL COURT OF THE CITY OF NEW YORK

New York County

Court Officer: February, 1985 to September, 1989

OTHER EXPERIENCE:

Capital Awning, 1980 -1985

Full Charge Bookkeeper

Drescher, Dorkin & Kaplan, CPA,
Accounts receivable and accounts payable.

EDUCATION:

City College, City of New York

Major: Public Administration

Degree: Bachelor of Arts

May, 2004

International Career Institute, New York, New York
Certificate in Bookkeeping

REFERENCES AVAILABLE UPON REQUEST

SURROGATE'S COURT
BRONX COUNTY - STATE OF NEW YORK
851 GRAND CONCOURSE
BRONX, NEW YORK 10451

LEE L. HOLZMAN
JUDGE



MICHAEL L. PRISCO
CHIEF CLERK
EARNESTINE GLOVER
DEPUTY CHIEF CLERK

December 8, 2005

MEMORANDUM:

TO: Hon. Joan B. Carey
FROM: Hon. Lee L. Holzman
Surrogate
SUBJECT: Chief Clerk VI

Attached you will find all necessary papers pertaining to the above mentioned position.

- 1) Original Employment Announcement (UCS-23)
- 2) Original Interview Summary Sheets (UCS-24) with names of candidates in order of preference:
 - #1 Diana M. Cruz
 - #2 John Raniolo
 - #3 Earnestine Glover
- 3) Original Interview Data Sheets (UCS-19xi)
- 4) Statement of Recruitment and Hiring Efforts (UCS-24A)

Should you require additional information, please feel free to contact our office at (718) 590-4515.